

SAO 7/2014

BEFORE

HON'BLE MR. JUSTICE N. CHAUDHURY

Seen office note dated 20.06.2014 wherein Filing Section has expressed the view that the learned counsel for the appellant committed mistake by describing the appeal as RSA. The Filing Section was of the view that since the Memo of Appeal has been presented against a miscellaneous appeal it should have been registered as SAO.

I have heard Mr. MA Sheikh, learned counsel for the appellant who submits that in view of the provision of Rule 103 of Order XXI of the Code of Civil Procedure, the order impugned in so called Misc. Appeal No. 1/2011 of the Court of learned District Judge at Jorhat was a deemed decree. The office of District Judge, Jorhat, therefore, ought to have considered the appeal to be a regular first appeal under Section 96 of the Code of Civil Procedure. This being the position, he correctly numbered this second appeal as RSA and the office note and consequent action of office re-numbering the appeal as SAO is incorrect.

Having heard the learned counsel for the appellant and on perusal of provision of Rule 103 of Order XXI, this Court is satisfied that the contention raised by Mr. MA Sheikh is correct. Office shall re-number this second appeal and list it again for admission hearing under Order XLI Rule 11 of the Code of Civil Procedure on 15.09.2014.